

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 398 - HB 1262

April 30, 2019

SUMMARY OF ORIGINAL BILL: Establishes that the report required by Commissioner of the Department of Revenue, pursuant to Tenn. Code Ann. § 67-1-103 and relative to a study of tax laws of other states, is required to be transmitted to the chief clerks of the Senate and the House of Representatives and the legislative librarian and it may be transmitted electronically.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (009050): Deletes all language after the enacting clause. Exempts the following professions from the requirement to pay the occupational privilege tax: accountants, architects, athlete agents, audiologists, chiropractors, dentists, engineers, landscape architects, optometrists, pharmacists, podiatrists, psychologists, real estate brokers, speech pathologists, and veterinarians. Stipulates that a person's failure to pay the professional privilege tax is not grounds for suspension or revocation of the person's license.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Decrease State Revenue – Net Impact – Exceeds \$22,277,700

Decrease State Expenditures – \$194,800

Increase Local Revenue – \$110,800

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 67-4-1703(a), the occupational privilege tax is a \$400 tax on persons engaging in specified occupations in Tennessee, due and payable on June 1 of each year.
- Pursuant to Tenn. Code Ann. § 67-4-1701, privilege tax collections are required to be deposited to the General Fund.
- The first year for which the specified occupations will be exempt from the occupational privilege tax is the tax year ending on May 31, 2021, for which the tax is currently due

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on June 1, 2020. As a result, the first year that collections will be impacted by this legislation will be FY19-20.

- This legislation will exempt from the professional privilege tax approximately 56,373 individuals.
- In addition, this legislation stipulates that a person's failure to pay the professional privilege tax is not grounds for suspension or revocation of the person's license.
- According to the Tennessee Bar Association newsletter dated April 29, 2019, there were 111 total licenses that were suspended or revoked due to delinquency with respect to the professional privilege tax. Of the 111 individuals, 11 individuals were eventually reinstated due to paying such tax along with corresponding interest.
- This legislation will result in preventing the suspension of at least 11 individuals each year; therefore it is assumed that this legislation will prevent the collection of the professional privilege tax from such individuals, along with any corresponding interest.
- A recurring decrease in state revenue exceeding \$22,549,200 $[(56,373 \times \$400)]$.
- It is assumed the provisions of this legislation will not result in any additional loss of occupational privilege tax revenue due to the Department of Revenue's ability to assess such tax, audit taxpayers, and levy interest charges against any delinquent taxpayers.
- Pursuant to Tenn. Code Ann. § 67-4-1709, any employer, including any governmental entity, is authorized to remit the occupational privilege tax on behalf of persons subject to the tax who are employed by such employer.
- There are approximately 2,436 state employees for which the state of Tennessee pays the occupational privilege tax.
- The number of current state employees who are registered as any of the professions exempted by this legislation is unknown, but is reasonably estimated to be approximately 20 percent of all individuals for whom the state pays the professional privilege tax, or 487 individuals $(2,436 \times 20 \text{ percent})$.
- The recurring decrease in state expenditures is estimated to be \$194,800 $(487 \times \$400)$.
- The Tennessee Advisory Commission on Intergovernmental Relations' 2016 study (The Professional Privilege Tax in Tennessee: Taxing Professionals Fairly) reports that 64 percent of occupational privilege taxpayers reside out of Tennessee, while 36 percent reside in the state.
- It is assumed that 50 percent of tax savings realized by in-state residents, net of the amounts paid by the state on behalf of such residents, will be spent in the economy on sales taxable goods and services.
- The net recurring tax savings that will be spent in the economy on sales taxable goods and services are estimated to exceed \$4,024,584 $[(\$22,553,600 - \$194,800) \times 36\% \times 50\%]$.
- The current state sales tax rate is 7.0 percent; the average local option sales tax rate is estimated to be 2.5 percent; the effective rate of apportionment to local government pursuant to the state-shared allocation is estimated to be 3.617 percent.
- The net recurring increase in state sales tax revenue is estimated to exceed \$271,531 $[(\$4,024,584 \times 7.0\%) - (\$4,024,584 \times 7.0\% \times 3.617\%)]$.
- The total recurring increase in local sales tax revenue is estimated to be \$110,805 $[(\$4,024,584 \times 2.5\%) + (\$4,024,584 \times 7.0\% \times 3.617\%)]$.

- The net recurring decrease in state revenue as a result of this bill estimated to exceed \$22,282,069 (\$22,553,600 - \$271,531).
- Occupational privilege tax returns are filed electronically and the Department does not have any staff dedicated to this tax. Therefore, there will be no staff reductions as a result of eliminating the occupational privilege tax.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

/jdb